

to the dough products and methods of Group II. While the doughs of Group II recite a composition comprising a yeast encompassed by Group I, the doughs of Group II can be made using other, materially different yeasts, such as other freeze-resistant yeast strains, with or without the addition of cinnamon to the dough.

The Examiner then states that because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purpose as indicated is proper.

In order to be responsive to the requirement for restriction, Applicants elect the invention set forth in claims 1-19 and 23-24 of Group I, drawn to new baker's yeast, new baker's yeast strains and methods of making the new baker's yeast.

Traverse

Notwithstanding the election, in order to be responsive to the requirement for restriction, of the claims 1-19 and 23-24 of Group I for examination at this time, it must be stressed that this election of claims 1-19 and 23-24 of Group I is being made with traverse for the following reason.

It is respectfully pointed out that the second of the two criteria set forth in the MPEP for a proper restriction requirement, i.e.

- the inventions must be independent or distinct
- the existence of a serious burden if a restriction requirement were not required,

is not fulfilled.

It is respectfully submitted that once having completely and thoroughly searched the elected claims 1-19 and 23-24 of Group I, the Examiner would not be obliged to further search with respect to the doughs and process for making as defined by the Group II, due to the fact that the baker's yeasts according to Group I are already characterized by

- their response to the presence of cinnamon
- their response to freezing when used in sweetened doughs.

The examination of the claims of both groups would thus actually not require additional searches or investigations in comparison with the examination of the claims of Group I and by way of consequence the examination of all the claims would not place a serious burden on the Examiner.

In consequence and in view of the particulars of the MPEP, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement.

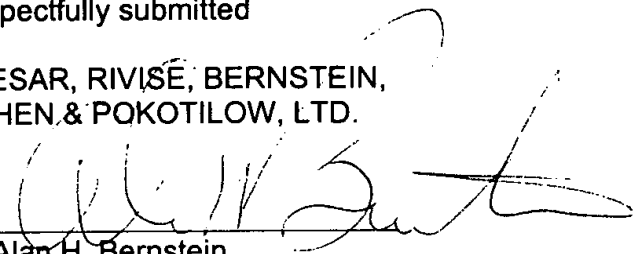


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Respectfully submitted

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CERTIFICATE OF MAILING

I hereby certify that the foregoing RESPONSE TO RESTRICTION REQUIREMENT, re Application Serial No. 09/716,639, is being deposited with the United States Postal Service, in duplicate, as First Class Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, this 20th day of February 2002.

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Alan H. Bernstein